

Scott D. Munsterman

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July 24, 2006

Kevin Schieffer, President & CEO
DM&E Railroad
140 N Phillips Ave.
Sioux Falls, SD 57104

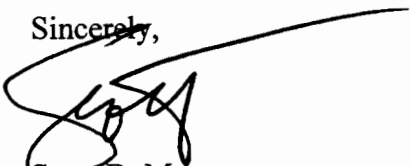
Dear Mr. Schieffer:

As you know, some members of our community have initiated a referendum concerning the Community Partnership Agreement between DM&E and the City of Brookings.

I have asked our city attorney for a legal opinion regarding the city's role and the effect of the referendum on our ability to take a position or act concerning the Powder River expansion project during this referendum timeframe. It is his opinion the referendum only suspends the Community Partnership Agreement. It does not limit the expression of City Council members' opinions; nor is the City Council limited in taking a position on DM&E expansion issues. Moreover, the City is not precluded from addressing DM&E expansion planning and safety issues through Council action, provided the Community Partnership Agreement and its terms are not utilized as authority or as an expression of the City's official position since the Agreement is not effective until the referendum election has been completed.

I just wanted to make you aware of this opinion.

Sincerely,



Scott D. Munsterman
Mayor, City of Brookings

CC: Victoria Rutson, Surface Transportation Board
Brookings City Council